

IN THE MATTER of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER of **Private Plan Change 61** – Lomai Properties Limited for land in the area generally bounded by Jesmond Road and Future Urban Zoned land to the east, Oira Road to the west, Future Urban Zoned land to the north and Karaka Road/State Highway 22 to the south (Drury West) to the Auckland Unitary Plan – Operative in Part.

MEMORANDUM FROM THE HEARING PANEL

CLARIFICATION RELATING TO IXXX.6.8 DEVELOPMENT STAGING & TRANSPORT UPGRADES

1. Pursuant to section 34 and 34A of the RMA, Auckland Council (the Council) has appointed a Hearing Panel consisting of independent hearing commissioners - Greg Hill (Chairperson), Mark Farnsworth and Karyn Kurzeja. The Hearing Panel's function is to hear the application and submissions and make a decision on the Plan Change proposal. It is also to deal with any procedural matters.
2. The Hearing Panel, having reviewed the Applicant's Reply Statements and as part of its initial deliberations, wants to make sure it fully understands the proposed Development Staging & Transport Upgrade provisions and how they function. To this end we seek some clarification as set out below.
3. The provisions as proposed are:

Purpose

- *To ensure that transport upgrades are implemented as needed to ensure the direct transport related effects resulting from development within Waipupuke are appropriately remedied or mitigated.*
- *Assess the performance of the Karaka Road (SH22)/Oira Road and Karaka Road (SH22)/Jesmond Road intersections after 2,000 dwellings have been consented within Waipupuke Precinct.*

(1) Subdivision or development within Waipupuke shall not progress beyond the issue of a 224(c) certificate (for subdivisions) or the issue of building consent (for new buildings) until Oira Road is upgraded (for the length of the Waipupuke Precinct frontage to Oira Road) and the Oira Road/Karaka Road (SH22) intersection is upgraded to a two-lane roundabout with approach lanes and both are operational, except that up to 95 residential dwellings may be occupied prior to these upgrades being operational subject to:

- a. A traffic management plan demonstrating how safe vehicle movements to and from the dwelling(s) or commercial building(s) can be achieved, is approved by Waka*

Kotahi and Auckland Transport as part of any resource consent or building consent for a dwelling or commercial building.

- (2) *Subdivision or development within Waipupuke shall not progress beyond the issue of a 224(c) certificate (for subdivisions) or the issue of building consent (for new buildings) within Waipupuke with vehicular access to Jesmond Road prior to the Jesmond Road/Karaka Road (SH22) intersection being upgraded, except that up to 95 residential dwellings may be occupied prior to this upgrade being operational subject to:*
 - a. *A traffic management plan demonstrating how safe vehicle movements to and from the dwelling(s) or commercial building(s) can be achieved, is approved by Waka Kotahi and Auckland Transport as part of any resource consent or building consent for a dwelling or commercial building.*
- (3) *Jesmond Road is to be upgraded to its ultimate design layout for the length of the Waipupuke precinct frontage including northern and southern approaches by the time the Jesmond Road/SH22 intersection upgrade is operational.*
- (4) *The Waipupuke Collector Road/Jesmond Road intersection is to be upgraded to its ultimate design by the time the Jesmond Road/SH22 intersection upgrade is operational.*
- (5) *An interim shared pedestrian/cycle path along the western side Jesmond Road (within the existing legal road or designation boundary) from the southern boundary of the Waipupuke Precinct to SH22 shall be provided by the time the Drury West rail station is operational.*
- (6) *An interim shared pedestrian/cycle path along the western side of Jesmond Road (within the existing legal road or designation boundary) from the northern boundary of the Waipupuke Precinct to the proposed new Secondary School shall be provided by the time the Jesmond Road secondary school is operational.*
- (7) *The ultimate design for the shared pedestrian/cycle path along SH22 (within the existing legal road or designation boundary) from Oira Road to the eastern boundary of the Waipupuke Precinct on SH22 shall be provided by the time the Drury West rail station is operational.*
- (8) *An interim design for the shared pedestrian/cycle path along SH22 (within the existing legal road or designation boundary) from the eastern boundary of the Waipupuke Precinct on SH22 to Jesmond Road shall be provided by the time the Drury West rail station is operational.*

4. The clarifications sought are:

- i. In Standards 1 and 2 above an exception is made for 95 dwellings. However, 1(a) and 2(a) refer to “*the dwelling(s) or commercial building(s)*”. We are unclear what the reference to “*commercial building(s)*” means?

- ii. In Standard 2 above reference is made to “*intersection being upgraded*”. All of the other Standards reference “*upgrade is operational*”. Should Standard 2 also reference “*upgrade is operational*”?
 - iii. The Hearing Panel understands that “*Activities that do not comply with Standard IXX6.8 (3) – (8)*” are proposed to be a Restricted Discretionary Activity. However, it is unclear to us (including IXX6.8 (5) – (8) which are linked to the operation of the Drury West rail station and new Secondary School which are not in the control of Lomai): what the mechanism is to ensure a Restricted Discretionary Activity resource consent(s) is sought; who would be required to seek any consent(s); and when would any consent(s) need to be sought, should those upgrades not occur as required?
 - iv. Standard 2 above is “*Subdivision or development within Waipupuke shall not progress beyond the issue of a 224(c) certificate (for subdivisions) or the issue of building consent (for new buildings) within Waipupuke with vehicular access to Jesmond Road prior to the Jesmond Road/Karaka Road (SH22) intersection being upgraded.*” Standards 3 and 4 require Jesmond Road and Waipupuke Collector Road/Jesmond Road intersection to be upgraded to their ultimate design layout by the time the Jesmond Road/SH22 intersection upgrade is operational. It appears to us that the upgrades required by Standards 2, 3 and 4 would need to occur at the same time. Is our understanding correct? If it is, why are the upgrades required by Standards 3 and 4 a Restricted Discretionary Activity and not a Non-Complying activity as is Standard 2 if those upgrades are not undertaken as required?
 - v. What is intended or meant by the term “*interim*” shared pedestrian/cycle path (rule 5, 6 and 8) and the “*ultimate*” shared pedestrian/cycle path (rule 3, 4 and 7)?
 - vi. Rules 7 and 8 refer to the “*..design for the shared pedestrian/cycle path*” to be provided where as rules 5 and 6 requires the provision of “*the interim shared pedestrian/cycle path*”. What does the word “design” mean?
5. Any enquiries regarding this Memorandum should be directed to the Council’s Senior Hearings Advisor, Mr Sam Otter by email at sam.otter@aucklandcouncil.govt.nz.



Greg Hill Chairperson
28 October 2021